



# COUNTY OF LOS ANGELES

## CLAIMS BOARD

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

### MEMBERS OF THE BOARD

December 15, 2003

Maria M. Oms  
Auditor-Controller  
Lloyd W. Pellman  
Office of the County Counsel  
Rocky Armfield  
Chief Administrative Office

Honorable Board of Supervisors  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Re: **County of Los Angeles v. Diana Bonta and State Department  
of Health Services**  
**Los Angeles Superior Court No. BS 081 218**

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of \$122,019.00 to be paid to the County.
2. The Auditor-Controller be directed to accept payment to implement this settlement for the Department of Health Services.

Enclosed is the settlement request and a summary of the facts of the case.

Return the executed, adopted copy to Frances Lunetta, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-1754.

Very truly yours,

Maria M. Oms, Chairperson  
Los Angeles County Claims Board

MMO/fsl

Enclosure

# MEMORANDUM

November 25, 2003

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: LEELA A. KAPUR  
Assistant County Counsel  
Public Services Division

RE: County of Los Angeles v. Diana Bonta and State Department of Health Services  
**Los Angeles Superior Court No. BS 081218**

DATE OF  
INCIDENT: July 1997 through April 2001

AUTHORITY  
REQUESTED: County would receive \$122,019

COUNTY  
DEPARTMENT: Department of Health Services

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## CLAIMS BOARD ACTION:

☐ Approve      ☐ Disapprove      ☐ Recommend to Board of Supervisors for Approval

\_\_\_\_\_, Chief Administrative Office  
**ROCKY ARMFIELD**

\_\_\_\_\_, County Counsel  
**LLOYD W. PELLMAN**

\_\_\_\_\_, Auditor-Controller  
**MARIA M. OMS**

on \_\_\_\_\_, 2003

## SUMMARY

This is a recommendation to settle a County lawsuit against the State Medi-Cal program which challenges the denial of Treatment Authorization Requests ("TARs"). The County would receive \$122,019 under the proposed settlement.

The proposed settlement would resolve a lawsuit pending in the Superior Court. This lawsuit concerns payment to the County for a total of 290 days of care provided to Medi-Cal patients at the LAC+USC Medical Center ("LAC/USC"), Harbor/UCLA Medical Center ("H/UCLA"), and Rancho Los Amigos National Rehabilitation Center ("RLANRC"). Those services were provided between July 1997 and April 2001.

The maximum value to the County of this lawsuit is approximately \$304,570, broken down as follows:

1. As to LAC/USC, the lawsuit involves 41 acute care days, with a total of \$46,995 at issue.
2. As to H/UCLA, 222 acute care days, with a total of \$230,890, are at issue.
3. As to RLANRC, 27 acute care days, with a total of \$26,865, are at issue.

Under the proposed settlement, the State will process the TARs for 111 acute care days and 17 administrative days, thus allowing the County to receive reimbursement in the amount of \$122,019. Additionally, the County will be able to claim the days for purposes of calculating its Disproportionate Share Hospital ("DSH") payments.

## LEGAL PRINCIPLES

The Medi-Cal program is obligated to pay for inpatient treatment only to the extent that the hospital has obtained an approved TAR from the Medi-Cal program for each day of the hospital stay. The Medi-Cal program has an obligation to grant a TAR if the patient is entitled to full scope Medi-Cal benefits and there is a showing of medical necessity based upon information in the patient's medical record. Many of the patients whose TARs were denied were undocumented aliens, also known as "OBRA" patients, who are only entitled to Medi-Cal if the care provided constituted emergency services.

## SUMMARY OF FACTS

As required by the Medi-Cal program, each County hospital seeks a TAR for each day of inpatient care to a Medi-Cal beneficiary. When a TAR is denied and the hospital questions the denial, the matter is usually resolved through discussions between hospital personnel and Medi-Cal officials. If not resolved through this informal process, two levels of more formal appeal are available. However, when a dispute cannot be resolved through the appeal process, the only effective method for further challenge is through litigation like this case.

TAR denial litigation is usually not very cost effective to pursue, since each day of care is justified by its own particular set of facts and the cost to prove the claim can often exceed its value. Nevertheless, the County Department of Health Services ("Department") periodically identifies for pursuit through litigation denied TARs where services were provided and where there appears to be a strong basis for questioning the State's denial. The County has filed a number of these cases.

The vast majority of TARs are approved either when initially presented to the State or as the result of informal discussions at the hospital after a denial. Some TAR denials are reversed at the first or second level of appeal. Consequently, TAR denials which are taken to litigation are the ones most difficult to overturn, and their settlement value is relatively low.

This lawsuit challenges denied TARs for 290 days of care at three County hospitals during the period of July 1997 through April 2001. The maximum value to the County for these days of care is approximately \$304,570.

## STATUS OF CASE

This case is being settled at an early stage of litigation. The Department, through counsel, has established a practice of entering into negotiations with the State immediately after filing this type of lawsuit. The goal is to resolve the issues without incurring the extensive costs associated with discovery and trial preparation. Unfortunately, the State attorneys have required that the County file the litigation before they are willing to enter into settlement negotiations.

## EVALUATION


The total settlement amount of \$122,019 is equal to approximately 40 percent of the total amount at issue. Because the TAR denials under review in any litigation are denials which have been upheld through several reviews, they necessarily are denials which will be difficult to overturn.

Additionally, the federal court of appeals has established an extremely narrow definition of "emergency," in the context of determining the scope of services covered under Medicaid for undocumented aliens. If this definition were applied to the claims at issue involving services to undocumented aliens, the court would likely determine that a large percentage of the TARs at issue in the proposed settlement that involve care to undocumented aliens are not covered by Medi-Cal, because the services do not meet the definition of "emergency" care.

Additionally, the expense and County resources associated with litigation of this type is significant, given the number of TARs involved and the factually dependent nature of the litigation. Therefore, it is believed that the proposed settlement is comparable, if not better, than the County likely would recover if this case were litigated. To date, outside counsel has billed \$11,000 for its time associated with filing the complaint and negotiating the settlement.

We join our private counsel of Foley and Lardner in recommending settlement of this lawsuit. The Department, which participated in the settlement discussions, is fully in support of this settlement.

APPROVED:

  
LEELA A. KAPUR  
Assistant County Counsel

LAK:vec